

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ALLEN FOSTER,

Defendant-Appellant.

UNPUBLISHED

September 26, 2006

No. 261562

Wayne Circuit Court

LC No. 04-007308-01

Before: Cavanagh, P.J., and Markey and Meter, JJ.

PER CURIAM.

Defendant appeals by right his jury trial convictions for second-degree murder, MCL 750.317, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to 7 to 15 years' imprisonment for his second-degree murder conviction, and to two years' imprisonment for his felony-firearm conviction. We affirm.

Defendant asserts that two instructional errors require reversal. Specifically, defendant argues that the trial court improperly instructed the jury regarding the necessary state of mind for a second-degree murder conviction. Defendant also argues that the trial court erred when it failed to instruct the jury on the lesser-included offense of voluntary manslaughter. We disagree.

After the trial court read the instructions to the jury, the court asked the attorneys, "As to the instructions given by the court, any objections of the parties?" The prosecutor replied, "No, your honor," and defense counsel replied, "likewise, on behalf of Mr. Foster." By expressly approving the instructions, defendant has waived review of both issues on appeal. *People v Lueth*, 253 Mich App 670, 688; 660 NW2d 322 (2002), citing *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).

We affirm.

/s/ Michael J. Cavanagh

/s/ Jane E. Markey

/s/ Patrick M. Meter